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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,197	12/19/2001	Jurgen Ehret	2000P80216 US	6404

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EXAMINER

HO, THOMAS Y

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,197

Examiner

Thomas Y Ho

Applicant(s)

EHRET ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-13, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-13, 17-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-13 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakajima US6168216.

As to claim 10, Nakajima discloses, a door lock for motor vehicles having a rotary latch 16 and a closing aid 8 which acts on the latter and, with aid of a drive 81, carries along door to be closed over a last section into closed position, wherein the drive of the closing aid is separated structurally from the door lock and a flexible drive element 7 is provided for transmitting force from the drive to the rotary latch (see Figures 11-12), wherein the flexible drive element undergoes a change in direction with aid of at least one deflection roller 84, wherein the deflection roller is rotatable mounted on a toggle lever 78,79,80,87 (see Figure 16) and is moveable from its normal position (the normal position is where the toggle lever fixes the deflection roller to the part 79) by the toggle lever into an auxiliary opening position (the auxiliary opening position is where the deflection roller is no longer fixed to the part 79, and this is achieved by movement of the toggle lever part 88 out of the slot 89) shortening path of the drive element (the drive element is shortened when in auxiliary opening position because the drive element is no longer wound around the deflection roller during rotational movement of the

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toggle lever), wherein the toggle lever is foldable in by actuation of an auxiliary opening device 96.

As to claim 11, Nakajima discloses, wherein the rotary latch 16 is moveable into its closed position counter to force of a restoring spring 20 by the flexible drive element 7 in form of a tension element.

As to claim 12, Nakajima discloses, wherein the drive 81 drives a cable winch 58 or a cable eccentric onto which the drive element 7 is windable.

As to claim 13, Nakajima discloses, wherein the flexible drive element 7 is a metal cable.

As to claim 17, Nakajima discloses, wherein the drive element 7 is kept under stress in all operating states by at least one prestressing spring 61.

As to claim 18, Nakajima discloses, wherein at least a restoring spring 20 of the rotary latch 16 and/or a restoring spring of a driving lever acting on said rotary latch ensures that the drive element 7 is prestressed. The restoring spring 20 biases the latch 16 to open position, which prestresses the drive element 7 through the contact of a pin on the latch 16 with the element 58.

Response to Arguments

Applicant's arguments filed 10/1/03 have been fully considered but they are not persuasive.

Applicant argues that the position of the Examiner is traversed in the matter of the mounting of the deflection roller of Nakajima rotatably on a toggle lever. In support of this argument, Applicant states that "the support shaft 80 is fixed to the base plate 78 (see Figure 16) and the base plate 78 is fixed to the door 2 (see lines 1819). Therefore, the position of the axis of

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the support shaft 80 is a fixed position about which the winch lever can rotate. However, the position of the shaft 80 cannot be moved together with the "roller 84" (to use the language of the Examiner) from a normal position into an auxiliary opening position." Furthermore, Applicant states "In contrast, in the teaching of Nakajima, the winch (or roller) 84 cannot undergo a translation from one position to another position. To emphasize this distinction in the present claims, in the amendment of claim 10, the descriptive clause of the deflection roller appearing in the last paragraph (that the roller is rotatably mounted on a toggle lever) is moved to the first paragraph, and the claim is amended further to state that the deflection roller is moveable from its normal position by the toggle lever, as is shown in. present Figs. 2 and 3. Such movement is impossible in Nakajima because, as already noted above, the rotational axis (shaft 80) of the winch/roller 84 is fixed to the base plate 78." In response to these arguments against Nakajima, Applicant is directed to claim 10. The language used in the claim never requires that the winch must undergo a "translation" from one position to another position, but rather only requires movement of any kind between two positions. Furthermore, although the rotational axis of the winch/roller 84 is fixed to the base plate in Nakajima, the claim language never recites that the rotational axis of the winch/roller undergoes any kind of movement. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

If Applicant were to amend claim 10 as presented to further include that the toggle lever moves the rotational axis of the winch roller, this addition could read over the current art

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rejection using Nakajima under 35 USC 102(e), because the rotational axis 80 of the winch/roller in Nakajima does not undergo any movement.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH



James R. Brittain
Primary Examiner